

ATLANTIC OIL CORP.

IBLA 84-687

Decided March 4, 1985

Appeal from decision of the Colorado State Office, Bureau of Land Management, refusing to release a bond for oil and gas lease C-20411.

Set aside and remanded.

1. Oil and Gas Leases: Bonds

A designated oil and gas lease operator may file an operator's bond in lieu of the lessee providing a general lease and drilling bond, but such operator's bond must be conditioned upon compliance with all lease terms and conditions for the entire leasehold, even though the operator has only part of the acreage assigned to his operations.

2. Oil and Gas Leases: Bonds

Where an operator provides a bond, regardless of the percentage of interest in the lease or the lease acreage covered by the interest, the bond is conditioned upon compliance with all the terms and conditions of the oil and gas lease; however, the bond may be released where the operator has completed successful reclamation on the well for which the bond was furnished, if the bonds of other operators on the leasehold, so conditioned, remain effective.

APPEARANCES: Gordon Smale, president, Atlantic Oil Corporation, Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE HARRIS

Atlantic Oil Corporation (Atlantic) has appealed from a May 21, 1984, decision of the Colorado State Office, Bureau of Land Management (BLM), rejecting its request for release of a \$10,000 cash bond for oil and gas lease C-20411. That lease was issued to WGB Oil, Inc. (WGB), with an effective date of April 1, 1974. 1/ In August 1980 WGB and Fluor Drilling Services

1/ The lease included 1,520 acres described as:

"T. 2 S., R. 95 W. 6th P.M.

"Sec. 21: All

"Sec. 22: W 1/2 E 1/2, W 1/2

"Sec. 23: E 1/2 W 1/2 E 1/2, W 1/2"

(Fluor), a 50-percent assignee of C-20411, granted Atlantic a "Designation of Operator" to drill well No. 2-21-2-95 in the NW 1/4 sec. 21. In November 1980 Atlantic filed a \$10,000 cash bond with BLM. By decision dated November 21, 1980, BLM accepted the bond stating:

On November 17, 1980, this office received from Atlantic Oil Corporation a cashier's check in the amount of \$10,000.00 to provide cash bond coverage of the lease for the lessees.

The bond is accepted pursuant to 43 CFR 3104.1(b) and 3104.2(a) to provide coverage as a general lease and drilling bond.

The \$10,000.00 will be held in a suspense account until all lease obligations have been fulfilled or adequate substitute bonding coverage is furnished by the lessees.

Atlantic subsequently drilled a dry well which was plugged and abandoned. In October 1983 Atlantic requested that its bond be released. An internal BLM memorandum dated December 15, 1983, stated that reclamation of well site 2-21-2-95 had been completed, and the Area Manager had no objection to release of the bond. A "Sundry Notice for Subsequent Report of Abandonment" was approved by BLM on February 2, 1984, and on February 13, 1984, the Craig District Manager indicated no objection to bond release.

In its May 21, 1984, decision BLM refused to release the bond stating that Atlantic's bond "represents the only full coverage for either the record title or operating rights for lease C-20411." (Emphasis in original.) BLM stated that even though Atlantic's only interest was in the well which was plugged and abandoned, "the record title holders, on whose behalf Atlantic Oil Corporation posted the \$10,000 cash bond, remain accountable for any other wells on the entire leasehold, such as well No. 21-2-95." 2/

In its statement of reasons Atlantic argues that at all times it has acted in good faith to fulfill its obligation. It states that C-20411

2/ In a Feb. 8, 1984, letter to BLM, Atlantic commented about well No. 21-2-95 as follows:

"The 21-2-95 is a producing well in the SW 1/4 21-2S-95W, and in which the partners are as stated above [Pool Oil & Gas (Pool), American Natural Gas Producing Co. (now ANR Production Co. (ANR), Indian Wells Oil Company, and Martin Oil Company)]. This well was drilled approximately March of 1980 and was already bonded with the BLM -- before Atlantic drilled the #2-21-2-95 -- as evidenced by the copy of BLM's Receipt and Accounting Advice (#022777), which I have enclosed and which shows bonds for the SW 1/4 (Indian Wells, American Natural Gas Producing Co.) and the NW 1/4 (Martin). Atlantic subsequently drilled the dry hole #2-21-2-95 in the NW 1/4 about October 1980. Atlantic's bond covered only its interest in the NW 1/4 (as it never had any interest in the SW 1/4) and the #2-21-2-95." (Emphasis in original.)

expired on April 1, 1984, and no further development activity will take place. ^{3/} Furthermore, Atlantic contends reclamation work on well No. 21-2-95 is being finalized, and "the federal government already has adequate protection in the bonds posted by Fluor and the remaining interest owners."

[1] The question presented is whether BLM properly refused to release Atlantic's bond. The "Bond of Oil and Gas Lease Operator" executed by Atlantic states in relevant part:

WHEREAS, the said principal [Atlantic] in consideration of being permitted, in lieu of the lessee, to furnish this bond agrees and by these presents does hereby bind himself to fulfill on behalf of the lessee all of the obligations of the said lease in the same manner and to the same extent as though he were the lessee[.]

BLM's decision accepting the bond stated that the bond would be held "until all lease obligations have been fulfilled" or adequate substitute bonding furnished. The form executed by Atlantic and approved by BLM is clearly an operator's bond. In its November 21, 1980, decision BLM accepted the bond as a general lease and drilling bond, apparently in lieu thereof. ^{4/}

Appellant alleges that sufficient bonding exists for the lease, in addition to its bond, to provide adequate protection. In its February 8, 1984, letter to BLM requesting relief (see note 2, supra), appellant states that BLM records show bonds for the SW 1/4 by Indian Wells and ANR and by Martin for the NW 1/4.

^{3/} We note that if well No. 21-2-95 is, in fact, a producing well, lease C-20411 may be extended so long as oil or gas is being produced in paying quantities. 43 CFR 3107.2-1.

^{4/} The regulations, 43 CFR 3104.2 (1980), applicable at the time Atlantic provided the bond stated:

"(a) General lease and drilling bond. A general lease and drilling bond in the amount of not less than \$10,000, conditioned upon compliance with all the terms and conditions of the lease must be furnished prior to entry and commencement of geophysical exploration or drilling operations by the lessee or his operator.

"(b) Operator's bond. An operator's bond in the amount of not less than \$10,000, conditioned upon compliance with all the terms and conditions of the lease, may be furnished in lieu of a general lease and drilling bond. Where there are two or more operators having interests in different formations or portions of the lease, each operator may file an operator's bond in his own name as principal on the bond in lieu of the general lease and drilling bond. In any event, every operator shall be covered by either a general lease and drilling bond or an operator's bond."

Although the wording of the bond regulations has been modified slightly, the requirements for lessee and operator bonds are essentially the same. 43 CFR 3104.2 (48 FR 33669 (July 22, 1983)).

On March 12, 1980, BLM approved the following assignment of operating rights:

From the surface to the stratigraphic equivalent of 7,350 feet in the Indian Wells Federal #21-2-95 well located in the NE 1/4 SW 1/4, Section 21, T. 2 S., R. 95 W., 6th P.M. in Rio Blanco County, Colorado:

As to the SW 1/4, Section 21, T. 2 S., R. 95 W., 6th P.M. (160.00 Acres):

Indian Wells Oil Company	62.5%
Martin Oil Company	25.0% [<u>5</u>]
American Natural Gas Production Company	12.5%

As to the following lands in T. 2 S., R. 95 W., 6th P.M.

Sec. 21: SE 1/4
 Sec. 22: W 1/2 NE 1/4, NW 1/4
 Sec. 23: SW 1/4, E 1/2 W 1/2 SE 1/4
 (600.00 Acres):

Pool Oil & Gas	90%
American Natural Gas Production Company	10%.

All other operating rights in the lease, i.e., those below the depth specified in the lands described above and those at all depths in the other 760.00 acres in the leasehold are held equally by the lessees, Flour [sic] Drilling Services, Inc. and WGB, Inc.

The serial register page for C 20411 shows an approval of assignment of operating rights effective January 1, 1981, for the SW 1/4, sec. 21. The assignor is Indian Wells Oil Company, assigning its 62.5 percent interest to Pool. The record indicates that at the time of assignment approval Pool had a statewide bond on file with BLM (see letter to BLM from Pool, dated January 13, 1981).

In its May 21, 1984, decision BLM stated that only portions of the operating rights in leased lands were covered by statewide or nationwide bonds of Pool and ANR. A handwritten, undated, unsigned note in the case record states that the 2-21-2-95 well

was covered by Indian wells bond, which was terminated after assignments to Pool. On those assignments everyone is bonded except we accidentally let the Martin SW bond be terminated. So the only proper coverage is the lease bond * * * for the 21-2-95 well even though Atlantic really furnished the bond for the 2-21-2-95 well, which is now satisfactorily abandoned.

5/ Atlantic apparently misread the BLM records regarding Martin's interest. Those records show Martin as having operating rights in the SW 1/4 of sec. 21.

[2] Despite BLM's claim that only portions of operating rights were covered by the Pool and ANR bonds, the regulations apparently contain no provision for partial operating rights bonding. The record contains no copy of the Pool and ANR bonds; however, we must conclude from the wording of the regulations that when an operator provides a bond, regardless of the percentage of interest in the lease or the lease acreage covered by the interest, that bond is "conditioned upon compliance with all the terms and conditions of the lease." Likewise, we assume that a statewide or nationwide bond is conditioned upon the same compliance.

Since Pool and ANR are bonded, we find no bar to release of Atlantic's bond, even though it obligated itself to fulfill compliance with all lease terms for the entire leasehold. The facts are that Atlantic was the operator for well No. 2-21-2-95 which was plugged and abandoned. Atlantic completed a reclamation of that wellsite. Other bonded companies hold operating rights for well No. 2-21-95. In the absence of express language in the bonds of those companies which would limit their liability with regard to C-20411, we find that such bonding is sufficient to insure compliance with the lease terms and conditions and thereby adequately protect the Government's interest. Under such circumstances BLM should return Atlantic's bond.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is set aside and the case remanded for release of Atlantic's bond.

Bruce R. Harris
Administrative Judge

We concur:

Gail M. Frazier
Administrative Judge

Will A. Irwin
Administrative Judge

